

Appl. No. 10/811,417

Attorney Docket No. 11721-043

## II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this amendment, claims 1, 2, 5-9, 11, 16-20 and 22-35 remain pending. Claims 3, 10, 12-15, 21 and 36-49 have been cancelled.

### *Further Claim Clarifications*

Prior to discussing the references, it is believed that a brief discussion on the current form of the independent claims of this application is warranted. The original independent claims of this application have been amended to clarify, more particularly to point out and distinctly claim that which applicant regards as the subject matter of the present invention.

Claim 1 has been amended to recite that when the forward speed of the motor vehicle is greater than or equal to a first predetermined threshold and the grill is in the extended position, the control unit causes the grill to move to the retracted position. Additionally, claim 1 has been amended to further recite when the forward speed of the motor vehicle is less than or equal to the first predetermined threshold and greater than or equal to a second predetermined threshold, and the grill is in the retracted position, the control unit causes the grill to move to the extended position.

Claim 19 has been amended to recite that the apparatus is configured to provide, when the grill is in the extended position, pedestrian energy



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absorption upon the impacting of the motor vehicle with the pedestrian, thereby reducing injury to the pedestrian.

*Claim Rejections - 35 U.S.C. § 102(b)*

Claims 1-3, 6-9, 16-21, 23-26, and 33-35 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,224,12C, to Eipper et al. ("Eipper"). Applicants respectfully traverse these rejections.

As stated previously, claim 1 has been amended to recite that when the forward speed of the motor vehicle is greater than or equal to a first predetermined threshold, and the grill is in the extended position, the control unit causes the grill to move to the retracted position. Furthermore, claim 1 has been amended to recite when the forward speed of the motor vehicle is less than or equal to the first predetermined threshold and greater than or equal to a second predetermined threshold, and the grill is in the retracted position, the control unit causes the grill to move to the extended position.

The Eipper reference discloses an extendable and retractable front grill. The front grill is extended to provide impact protection when striking another vehicle. When driving at lower speeds, such as a crowded city street, the grill is retracted to permit easy parking and clearance of the vehicle of obstructions, such as pedestrians. Eipper, column 2, lines 31-35, states that when the grill is retracted, a front protection bow is created. Eipper teaches that by retracting the grill, the risk of striking pedestrians is reduced. Thus, Eipper discloses retracting the grill to reduce the risk of pedestrian impact whereas of the present invention involves extending the grill to reduce injuries to pedestrians in the event a pedestrian is struck by the grill.



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Furthermore, nothing in Eipper discloses retracting the grill at a first threshold speed and extending the grill when the vehicle is less than the first threshold speed but greater than a second threshold speed. As illustrated in the discussion above, Eipper would teach to extend, not retract, the grill at higher speeds. The intent of Eipper is to extend the bow (grill) in order to reduce damage to the motor vehicle front end. Eipper further discloses to retract the bow (grill) in order to avoid striking a pedestrian. (Column 2, lines 31-34). Conversely, the present invention discloses extending the grill in order to minimize injury to a pedestrian in the event a pedestrian is struck. By retracting the bow (grill) in order to avoid striking pedestrians, Eipper teaches away from the present invention.

As to claim 19, claim 19 has been amended to recite that the apparatus is configured to provide, when the grill is in extended position, pedestrian absorption upon the impacting of the motor vehicle with the pedestrian, thereby reducing injury to the pedestrian. As discussed previously, the grill in Eipper, when extended, is configured to reduce impact forces encountered in striking another automobile. Conversely, claim 19 recites that when the grill is extended, and the grill is particularly designed for absorbing the impact forces encountered in striking a pedestrian.

As to claims 2, 6-9, 16-21, 23-26 and 33-35, these claims are dependent on either claims 1 or 19 and are therefore allowable for at least the same reasons given above in support of claims 1 and 19. Accordingly, allowance of these claims is respectfully requested.

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*Claim Rejections - 35 U.S.C. §103(a)*

Claims 5, 10-13, 22, 27-30, 36-40 and 43-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eipper in view of U.S. Patent No. 5,967,573 to Wang ("Wang"). Applicants respectfully traverse these rejections.

First, claims 5, 10-13, 22 and 27-30 are dependent on either claims 1 or 19 and are therefore allowable for at least the same reasons given above. Accordingly, allowance of these claims is respectfully requested. Claims 36-40 and 43-47 have been cancelled.

Second, the Wang reference, like the Eipper reference discloses extending the grill at higher vehicle speeds to lessen the damage caused by striking another vehicle. (Column 1, lines 21-25) At lower speeds, the grill is retracted. Therefore, the Wang references teaches away from the present invention which retracts the grill at higher speeds and extends the grill at lower speeds. Furthermore, the grill in the present invention, when in the extended position, is configured to minimize damage to pedestrian in the event a pedestrian is struck. In Wang, the grill is configured to minimize damage when striking another vehicle when in the extended position.

Claims 14, 15, 31, 32, 41, 42, 48, 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eipper. Applicants respectfully traverse this rejection. Claims 14, 15, 31 and 32 are dependant on either claims 1 or 19 and are therefore allowable for at least the same reasons given above. Accordingly, allowance of these claims is respectfully requested. Claims 41, 42, 48 and 49 have been cancelled.

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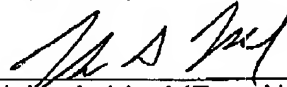
*Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted,

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